

Senate File 2348 - Introduced

SENATE FILE 2348

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2331)

A BILL FOR

1 An Act relating to the approval and imposition of local option
2 taxes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 423B.1, subsection 1, Code 2014, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 1. *a.* A county may impose by ordinance of the board of
5 supervisors the local vehicle tax authorized by this chapter,
6 subject to this section.

7 *b.* A city or county may impose by ordinance the local sales
8 and services tax authorized by this chapter, subject to this
9 section.

10 Sec. 2. Section 423B.1, subsection 2, paragraph b,
11 subparagraph (3), Code 2014, is amended to read as follows:

12 (3) The tax once imposed shall continue to be imposed until
13 the county-imposed tax is ~~reduced or increased in rate or~~
14 ~~repealed, and then the city-imposed tax shall also be reduced~~
15 ~~or increased in rate or repealed in the same amount and be~~
16 effective on the same date.

17 Sec. 3. Section 423B.1, subsection 3, Code 2014, is amended
18 to read as follows:

19 3. *a.* ~~A local option tax shall be imposed only after an~~
20 ~~election at which~~ If a majority of those voting on the question
21 of imposition of a local option tax favors imposition and, the
22 local option tax shall then be imposed at the rate specified on
23 the ballot for an unlimited period until repealed as provided
24 in subsection 6, paragraph "a" this chapter.

25 *b.* If the tax is a local vehicle tax imposed by a county,
26 it shall apply to all incorporated and unincorporated areas of
27 the county.

28 *c.* (1) (a) If the tax is a local sales and services tax
29 imposed by a county that is a qualified county, it shall only
30 apply to ~~those incorporated areas and the unincorporated area~~
31 ~~of that county in which~~ if a majority of those voting in the
32 area on the tax favors its imposition.

33 (b) If the tax is a local sales and services tax imposed by
34 a city located in a county that is a qualified county, other
35 than a city under subsection 2, it shall only apply to the city

1 if a majority of those voting in the city on the tax favors its
2 imposition.

3 (2) If the tax is a local sales and services tax imposed by
4 a county that is not a qualified county, it shall only apply to
5 those incorporated areas and the unincorporated area of that
6 county in which a majority of those voting in the area on the
7 tax favors its imposition. For purposes of the local sales
8 and services tax imposed by a county that is not a qualified
9 county, all cities contiguous to each other shall be treated
10 as part of one incorporated area and the tax ~~would~~ shall be
11 imposed in each of those contiguous cities only if the majority
12 of those voting in the total area covered by the contiguous
13 cities favors its imposition. ~~In the case of a local sales and~~
14 ~~services tax submitted to the registered voters of two or more~~
15 ~~contiguous counties as provided in subsection 4, paragraph "c",~~
16 ~~all cities contiguous to each other shall be treated as part of~~
17 ~~one incorporated area, even if the corporate boundaries of one~~
18 ~~or more of the cities include areas of more than one county,~~
19 ~~and the tax shall be imposed in each of those contiguous cities~~
20 ~~only if a majority of those voting on the tax in the total area~~
21 ~~covered by the contiguous cities favored its imposition.~~ For
22 purposes of the local sales and services tax, a city is not
23 contiguous to another city if the only road access between the
24 two cities is through another state.

25 Sec. 4. Section 423B.1, Code 2014, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 3A. For purposes of this chapter,
28 "*qualified county*" means a county with a population in excess of
29 four hundred thousand or a county with a population of at least
30 sixty thousand but not more than seventy thousand, according to
31 the 2010 federal decennial census.

32 Sec. 5. Section 423B.1, subsections 4 and 5, Code 2014, are
33 amended to read as follows:

34 4. a. (1) A The county board of supervisors shall direct
35 within thirty days the county commissioner of elections to

1 submit the question of imposition of a local vehicle tax ~~or~~
2 ~~a local sales and services tax~~ to the registered voters of
3 the incorporated and unincorporated areas of the county upon
4 receipt of a petition, requesting imposition of a local vehicle
5 tax ~~or a local sales and services tax~~, signed by eligible
6 electors of the whole county equal in number to five percent of
7 the persons in the whole county who voted at the last preceding
8 general election. ~~In the case of a local vehicle tax, the~~ The
9 petition requesting imposition shall specify the rate of tax
10 and the classes, if any, that are to be exempt. If more than
11 one valid petition is received, the earliest received petition
12 shall be used.

13 (2) The county board of supervisors for a qualified county
14 shall direct within thirty days the county commissioner of
15 elections to submit the question of imposition of a local
16 sales and services tax to the registered voters of a city or
17 to the registered voters of the unincorporated area of the
18 county upon receipt by the board of supervisors of a petition,
19 requesting imposition of a local sales and services tax, signed
20 by eligible electors of the city or eligible electors of the
21 unincorporated area of the county, as applicable, equal in
22 number to five percent of the persons in the applicable city
23 or unincorporated area of the county who voted at the last
24 preceding general election. If more than one valid petition
25 is received for a city or for the unincorporated area of the
26 county, the earliest received petition shall be used.

27 (3) A county board of supervisors for a county that is not
28 a qualified county shall direct within thirty days the county
29 commissioner of elections to submit the question of imposition
30 of a local sales and services tax to the registered voters of
31 the incorporated and unincorporated areas of the county upon
32 receipt of a petition, requesting imposition of a local sales
33 and services tax, signed by eligible electors of the whole
34 county equal in number to five percent of the persons in the
35 whole county who voted at the last preceding general election.

1 If more than one valid petition is received, the earliest
2 received petition shall be used.

3 b. (1) The question of the imposition of a local sales
4 and services tax in a qualified county shall be submitted to
5 the registered voters of the city or to the registered voters
6 of the unincorporated area of the county upon receipt by the
7 county commissioner of elections of a motion, requesting such
8 submission, adopted by the governing body of a city located
9 within the county or of the county for the unincorporated area
10 of the county. Upon adoption of such motion, the governing
11 body of the city or county for the unincorporated area, shall
12 submit the motion to the county commissioner of elections. The
13 county commissioner of elections shall publish notice of the
14 ballot proposition concerning the imposition of the local sales
15 and services tax. The manner provided under this subparagraph
16 for the submission of the question of imposition of a local
17 sales and services tax is an alternative to the manner provided
18 in paragraph "a", subparagraph (2).

19 (2) The question of the imposition of a local sales and
20 services tax in a county that is not a qualified county shall
21 be submitted to the registered voters of the incorporated and
22 unincorporated areas of the county upon receipt by the county
23 commissioner of elections of the motion or motions, requesting
24 such submission, adopted by the governing body or bodies of the
25 city or cities located within the county or of the county, for
26 the unincorporated areas of the county, representing at least
27 one half of the population of the county. Upon adoption of
28 such motion, the governing body of the city or county, for the
29 unincorporated areas, shall submit the motion to the county
30 commissioner of elections and in the case of the governing
31 body of the city shall notify the board of supervisors of the
32 adoption of the motion. The county commissioner of elections
33 shall keep a file on all the motions received and, upon
34 reaching the population requirements, shall publish notice of
35 the ballot proposition concerning the imposition of the local

1 sales and services tax. A motion ceases to be valid at the
2 time of the holding of the regular election for the election of
3 members of the governing body ~~which~~ that adopted the motion.
4 The county commissioner of elections shall eliminate from the
5 file any motion that ceases to be valid. The manner provided
6 under this ~~paragraph~~ subparagraph for the submission of the
7 question of imposition of a local sales and services tax
8 is an alternative to the manner provided in paragraph "a",
9 subparagraph (3).

10 ~~c. Upon receipt of petitions or motions calling for the~~
11 ~~submission of the question of the imposition of a local sales~~
12 ~~and services tax as described in paragraph "a" or "b", the~~
13 ~~boards of supervisors of two or more contiguous counties in~~
14 ~~which the question is to be submitted may enter into a joint~~
15 ~~agreement providing that for purposes of this chapter, a~~
16 ~~city whose corporate boundaries include areas of more than~~
17 ~~one county shall be treated as part of the county in which a~~
18 ~~majority of the residents of the city reside. In such event,~~
19 ~~the county commissioners of elections from each such county~~
20 ~~shall cooperate in the selection of a single date upon which~~
21 ~~the election shall be held, and for all purposes of this~~
22 ~~chapter relating to the imposition, repeal, change of use,~~
23 ~~or collection of the tax, such a city shall be deemed to be~~
24 ~~part of the county in which a majority of the residents of the~~
25 ~~city reside. A copy of the joint agreement shall be provided~~
26 ~~promptly to the director of revenue.~~

27 5. a. The county commissioner of elections shall submit
28 the question of imposition of a local option tax at an election
29 held on a date specified in section 39.2, subsection 4,
30 paragraph "a" or "b", as applicable. The election shall not be
31 held sooner than sixty days after publication of notice of the
32 ballot proposition.

33 b. The ballot proposition shall specify the type and rate of
34 tax and, in the case of a vehicle tax, the classes that will be
35 exempt and, in the case of a local sales and services tax, the

1 date it will be imposed which date shall not be earlier than
2 ninety days following the election. The ballot proposition
3 shall also specify the approximate amount of local option tax
4 revenues that will be used for property tax relief and shall
5 contain a statement as to the specific purpose or purposes for
6 which the revenues shall otherwise be expended. If the county
7 board of supervisors in a county that is not a qualified county
8 or if the board of supervisors or city council, as applicable,
9 in a qualified county decides under subsection 6 to specify a
10 date on which the local option sales and services tax shall
11 automatically be repealed, the date of the repeal shall also be
12 specified on the ballot.

13 c. The rate of the vehicle tax shall be in increments of one
14 dollar per vehicle as set by the petition seeking to impose the
15 tax.

16 d. The rate of a local sales and services tax shall ~~not~~ be
17 ~~more than one percent as set by the governing body.~~

18 e. The state commissioner of elections shall establish by
19 rule the form for the ballot proposition which form shall be
20 uniform throughout the state.

21 Sec. 6. Section 423B.1, subsection 6, paragraph a,
22 subparagraph (1), Code 2014, is amended by striking the
23 subparagraph.

24 Sec. 7. Section 423B.1, subsection 6, paragraph a,
25 subparagraphs (2) and (3), Code 2014, are amended to read as
26 follows:

27 (2) (a) ~~The~~ A local option tax may be repealed or the
28 rate of the local vehicle tax increased or decreased or the
29 use thereof of a local option tax changed after an election at
30 which a majority of those voting on the question of repeal or
31 rate or use change ~~favored~~ favours the repeal or rate or use
32 change.

33 (b) The date on which the repeal, rate, or use change is
34 to take effect shall not be earlier than ninety days following
35 the election. The election at which the question of repeal

1 or rate or use change is offered shall be called and held in
2 the same manner and under the same conditions as provided in
3 subsections 4 and 5 for the election on the imposition of the
4 local option tax. However, in the case of a local sales and
5 services tax where the tax has not been imposed countywide, the
6 question of repeal or imposition ~~or~~ rate or use change shall
7 be voted on only by the registered voters of the areas of the
8 county where the tax has been imposed or has not been imposed,
9 as appropriate.

10 (c) ~~However, the~~ The governing body of the ~~incorporated~~
11 ~~area~~ city or unincorporated area where the local sales and
12 services tax is imposed may, upon its own motion, request the
13 county commissioner of elections to hold an election in the
14 ~~incorporated~~ city or unincorporated area, as appropriate, on
15 the question of the change in use of local sales and services
16 tax revenues. The election may be held at any time but not
17 sooner than sixty days following publication of the ballot
18 proposition. If a majority of those voting in the ~~incorporated~~
19 city or unincorporated area on the change in use favors the
20 change, the governing body of that city or area shall change
21 the use to which the revenues shall be used. The ballot
22 proposition shall list the present use of the revenues, the
23 proposed use, and the date after which revenues received will
24 be used for the new use.

25 (3) When submitting the question of the imposition of a
26 local sales and services tax, the ~~county~~ board of supervisors
27 of a county that is not a qualified county or the board of
28 supervisors or the governing body of the city, as applicable,
29 in a qualified county may direct that the question contain a
30 provision for the repeal, without election, of the local sales
31 and services tax on a specific date, which date shall be as
32 provided in section 423B.6, subsection 1.

33 Sec. 8. Section 423B.1, subsection 7, paragraph b, Code
34 2014, is amended to read as follows:

35 b. Costs of local option tax elections shall be apportioned

1 among jurisdictions within the county voting on the question
2 at the same election on a pro rata basis in proportion to the
3 number of registered voters in each taxing jurisdiction voting
4 on the question and the total number of registered voters in
5 all of the taxing jurisdictions voting on the question.

6 Sec. 9. Section 423B.1, subsection 8, Code 2014, is amended
7 by striking the subsection.

8 Sec. 10. Section 423B.1, subsections 9 and 10, Code 2014,
9 are amended to read as follows:

10 9. a. In a county ~~that has imposed a local option sales~~
11 ~~and services tax that is not a qualified county~~, the board
12 of supervisors shall, notwithstanding any contrary provision
13 of this chapter, repeal the local option sales and services
14 tax in the unincorporated areas or in an incorporated city
15 area in which the tax has been imposed upon adoption of ~~its~~
16 the board's own motion for repeal in the unincorporated areas
17 or upon receipt of a motion adopted by the governing body of
18 that incorporated city area requesting repeal. The board of
19 supervisors shall repeal the local option sales and services
20 tax effective on the later of the date of the adoption of the
21 repeal motion or the earliest date specified in section 423B.6,
22 subsection 1. For purposes of this ~~subsection~~ paragraph,
23 incorporated city area includes an incorporated city which is
24 contiguous to another incorporated city.

25 b. For a qualified county:

26 (1) In a city that has imposed a local sales and services
27 tax, the governing body of the city shall, notwithstanding any
28 contrary provision of this chapter, repeal the local sales
29 and services tax in the city upon adoption of its own motion
30 for repeal. The governing body of the city shall repeal the
31 local sales and services tax effective on the later of the
32 date of the adoption of the repeal motion or the earliest date
33 specified in section 423B.6, subsection 1.

34 (2) In the unincorporated area of the county where the
35 local sales and services tax has been imposed, the board of

1 supervisors shall, notwithstanding any contrary provision of
2 this chapter, repeal the local sales and services tax in the
3 unincorporated area of the county upon adoption of its own
4 motion for repeal. The board of supervisors shall repeal the
5 local sales and services tax effective on the later of the
6 date of the adoption of the repeal motion or the earliest date
7 specified in section 423B.6, subsection 1.

8 10. Notwithstanding subsection 9 or any other contrary
9 provision of this chapter, a local option sales and services
10 tax shall not be repealed ~~or reduced in rate~~ if obligations are
11 outstanding which are payable as provided in section 423B.9,
12 unless funds sufficient to pay the principal, interest, and
13 premium, if any, on the outstanding obligations at and prior
14 to maturity have been properly set aside and pledged for that
15 purpose.

16 Sec. 11. Section 423B.5, Code 2014, is amended to read as
17 follows:

18 **423B.5 Local sales and services tax.**

19 1. A local sales and services tax ~~at the rate of not more~~
20 ~~than one percent may be imposed by a~~ city or county pursuant
21 to this chapter shall be imposed on the sales price taxed
22 by the state under chapter 423, subchapter II. A local sales
23 and services tax shall be imposed on the same basis as the
24 state sales and services tax or in the case of the use of
25 natural gas, natural gas service, electricity, or electric
26 service on the same basis as the state use tax and shall not
27 be imposed on the sale of any property or on any service not
28 taxed by the state, except the tax shall not be imposed on
29 the sales price from the sale of motor fuel or special fuel
30 as defined in chapter 452A which is consumed for highway use
31 or in watercraft or aircraft if the fuel tax is paid on the
32 transaction and a refund has not or will not be allowed, on the
33 sales price from the sale of equipment by the state department
34 of transportation, or on the sales price from the sale or use
35 of natural gas, natural gas service, electricity, or electric

1 service in a city or county where the sales price from the sale
2 of natural gas or electric energy is subject to a franchise
3 fee or user fee during the period the franchise or user fee
4 is imposed. A local sales and services tax is applicable
5 to transactions within ~~those incorporated and the city or~~
6 unincorporated areas area of the county where it is imposed and
7 shall be collected by all persons required to collect state
8 sales taxes. However, a local sales and services tax is not
9 applicable to transactions of a retailer holding a retail sales
10 tax permit at a place of business, as defined in section 423.1,
11 if the retailer's place of business is located in part within
12 a city or unincorporated area of the county where the tax is
13 not imposed. ~~All cities contiguous to each other shall be~~
14 ~~treated as part of one incorporated area and the tax would be~~
15 ~~imposed in each of those contiguous cities only if the majority~~
16 ~~of those voting in the total area covered by the contiguous~~
17 ~~cities favors its imposition. In the case of a local sales and~~
18 ~~services tax submitted to the registered voters of two or more~~
19 ~~contiguous counties as provided in section 423B.1, subsection~~
20 ~~4, paragraph "c", all cities contiguous to each other shall be~~
21 ~~treated as part of one incorporated area, even if the corporate~~
22 ~~boundaries of one or more of the cities include areas of more~~
23 ~~than one county, and the tax shall be imposed in each of those~~
24 ~~contiguous cities only if a majority of those voting on the tax~~
25 ~~in the total area covered by the contiguous cities favored its~~
26 ~~imposition.~~

27 2. The amount of the sale, for purposes of determining the
28 amount of the local sales and services tax, does not include
29 the amount of any state sales tax.

30 3. A tax permit other than the state sales tax permit
31 required under section 423.36 shall not be required by local
32 authorities.

33 4. If a local sales and services tax is imposed by a city or
34 county pursuant to this chapter, a local excise tax at the same
35 rate shall be imposed by the city or county on the purchase

1 price of natural gas, natural gas service, electricity, or
2 electric service subject to tax under chapter 423, subchapter
3 III, and not exempted from tax by any provision of chapter
4 423, subchapter III. The local excise tax is applicable only
5 to the use of natural gas, natural gas service, electricity,
6 or electric service within those ~~incorporated~~ cities and
7 unincorporated areas of the county where it is imposed
8 and, except as otherwise provided in this chapter, shall be
9 collected and administered in the same manner as the local
10 sales and services tax. For purposes of this chapter, "*local*
11 *sales and services tax*" shall also include the local excise tax.

12 Sec. 12. Section 423B.6, subsection 1, paragraphs b and c,
13 Code 2014, are amended to read as follows:

14 *b.* A local sales and services tax shall be repealed only
15 on June 30 or December 31 but not sooner than ninety days
16 following the favorable election if one is held. However, a
17 local sales and services tax shall not be repealed before the
18 tax has been in effect for one year. At least forty days before
19 the imposition or repeal of the tax, a the city or county, as
20 applicable, shall provide notice of the action by certified
21 mail to the director of revenue.

22 *c.* The imposition of ~~or a rate change for~~ a local sales and
23 services tax shall not be applied to purchases from a printed
24 catalog wherein a purchaser computes the local tax based on
25 rates published in the catalog unless a minimum of one hundred
26 twenty days' notice of the imposition ~~or rate change~~ has been
27 given to the seller from the catalog and the first day of a
28 calendar quarter has occurred on or after the one hundred
29 twentieth day.

30 Sec. 13. Section 423B.6, subsection 2, paragraph b, Code
31 2014, is amended to read as follows:

32 *b.* The ordinance of a governing body of a city or county
33 board of supervisors imposing a local sales and services
34 tax shall adopt by reference the applicable provisions of
35 the appropriate sections of chapter 423. All powers and

1 requirements of the director to administer the state sales tax
2 law and use tax law are applicable to the administration of
3 a local sales and services tax law and the local excise tax,
4 including but not limited to the provisions of section 422.25,
5 subsection 4, sections 422.30, 422.67, and 422.68, section
6 422.69, subsection 1, sections 422.70 through 422.75, section
7 423.14, subsection 1 and subsection 2, paragraphs "b" through
8 "e", and sections 423.15, 423.23, 423.24, 423.25, 423.31
9 through 423.35, 423.37 through 423.42, 423.46, and 423.47.

10 Local officials shall confer with the director of revenue for
11 assistance in drafting the ordinance imposing a local sales and
12 services tax. A certified copy of the ordinance shall be filed
13 with the director as soon as possible after passage.

14 Sec. 14. Section 423B.6, subsection 3, paragraph b, Code
15 2014, is amended to read as follows:

16 b. All local tax moneys and interest and penalties received
17 or refunded one hundred eighty days or more after the date
18 on which the city or county repeals ~~its~~ the local sales and
19 services tax shall be deposited in or withdrawn from the state
20 general fund.

21 Sec. 15. Section 423B.7, subsection 1, paragraph a, Code
22 2014, is amended to read as follows:

23 a. Except as provided in paragraph "b", the director shall
24 credit the local sales and services tax receipts and interest
25 and penalties ~~from a county-imposed tax~~ to the county's account
26 in the local sales and services tax fund for the county in
27 which the tax was collected and from a city-imposed tax under
28 section 423B.1, subsection 2, to the city's account in the
29 local sales and services tax fund. If the director is unable
30 to determine from which city or county any of the receipts were
31 collected, those receipts shall be allocated among the possible
32 cities or counties based on allocation rules adopted by the
33 director.

34 Sec. 16. Section 423B.8, subsection 1, paragraph a, Code
35 2014, is amended to read as follows:

1 local option sales and services tax to the voters of certain
2 qualified counties by allowing the eligible electors of
3 individual cities and the unincorporated area of a county to
4 file a petition for an election to be held in the petitioning
5 jurisdiction if such petition is signed by eligible electors
6 of the city or the unincorporated area of the county, as
7 applicable, equal in number to 5 percent of the persons in
8 the applicable city or unincorporated area of the county who
9 voted at the last preceding general election. The bill defines
10 "qualified county" to mean a county with a population in
11 excess of 400,000 or a county with a population of at least
12 60,000 but not more than 70,000, according to the 2010 federal
13 decennial census. For those qualified counties, the bill also
14 removes the requirement that in order to have the local sales
15 and services tax presented to the voters, motions must be
16 approved by cities or the county for the unincorporated area,
17 representing at least one-half of the county's population.
18 Instead, the bill allows individual cities or the county for
19 the unincorporated area within a qualified county to approve a
20 motion for an election on the local sales and services tax to
21 be held in only that jurisdiction.

22 The bill provides that in a qualified county a city or the
23 board of supervisors for the unincorporated area of a county
24 may repeal the local sales and services tax in the city upon
25 adoption of its own motion for repeal.

26 For those counties that are not qualified counties, the
27 methods of seeking presentment of the local option sales and
28 services tax to the voters and the methods for repealing such
29 a tax remain the same as required under current Code chapter
30 423B.

31 The bill strikes special provisions related to the approval
32 and imposition of a local sales and services tax in a city that
33 is located in two or more contiguous counties.

34 The bill provides that a local sales and services tax is
35 not applicable to transactions of a retailer holding a retail

1 sales tax permit at a place of business if the retailer's place
2 of business is located in part within a city or unincorporated
3 area of the county where the tax is not imposed.

4 Current Code chapter 423B authorizes the imposition of a
5 local sales and services tax at a rate of not more than 1
6 percent. The bill requires a local sales and services tax, if
7 imposed, to be 1 percent.

8 The bill provides that the imposition of local option
9 taxes in effect on the effective date of this Act shall not
10 be affected by the bill and such taxes shall continue to be
11 imposed until their repeal pursuant to Code chapter 423B. The
12 law in effect at the time of the repeal governs the repeal of
13 the local option taxes.